

REMARKS

Pending Claims

The present Office Action (March 17, 2008) asserts that only two claims are pending, Claim 1 and Claim 3. Applicant respectfully asserts this is incorrect. Claims 1, 3-10 and 12-17 are pending in the present case. Applicant filed his response to the Final Office Action on December 6, 2007. Applicant then timely filed an RCE on January 3, 2008. Applicant checked the box regarding previously submitted responses to office actions under 37 CFR 1.114, as shown below.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL (Submitted Only via EFS-Web)							
Application Number	10/758,660	Filing Date	2004-01-15	Docket Number (if applicable)	JGF 02775 PTUS	Art Unit	2628
First Named Inventor	John G. Fischer			Examiner Name	Javid A. Amini		
This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV							
SUBMISSION REQUIRED UNDER 37 CFR 1.114							
Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).							
<input checked="" type="checkbox"/> Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.							

On January 3, 2008, the amendment was initialed as entered:

11/30/2007 10:15 2143474298

STORM

RECEIVED
CENTRAL FAX CENTER

PAGE 02/03

NOV 30 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: John G. Fischer
Serial No.: 10/758,660
Group Art Unit No.: 2628
Examiner: Amini, Javid A.
Filed: January 15, 2004
Attorney Docket: JGF 02775 PTUS
Entitled: METHOD OF DISPLAYING PRODUCT
AND SERVICE PERFORMANCE DATA

Enter
R
RCE
1/3/08
SNC

As such, Applicant asserts that Claims 1, 3-10 and 12-17 are pending in the present case.

Office Action of March 17, 2008

Claim 12 has been amended to correct a typographical error. The word “displaying” has been added to make grammatical sense consistent with the other independent claims.

Claims 1 and 3 are rejected under 35 USC 103(a)

Examiner asserts:

Claims 1, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiongson et al. US 200310103070 A1, and in view of Juha Savolainen, Juha Kuusela; Volatility analysis framework for product lines; ACM SIGSOFT Software Engineering Notes, Volume 26 Issue 3, hereinafter Savolainen

Applicant respectfully disagrees with the basis of the rejections of the Examiner. As Applicant will demonstrate, the obviousness rejection under §103 is the product of impermissible hindsight, with the Examiner picking and choosing among isolated disclosures in the prior art to deprecate Applicant's claimed invention.

Examiner states:

Tiongson teaches providing a plurality of animated graphic files, each animated graphic file depicting a unique contest between at least a first entity representing a first product and a second entity representing a second product (see paragraph 0013);

Paragraph [0013] of Tiongson is reproduced below:

[0013] None of the prior art discloses or suggests an improved visualization in an interactive display in which a user can compare data or products on one axis of the display and compare attributes of the data or products on the other axis of the display while the products and attributes animate while reorganizing their screen locations in a simple, engaging, and effective visualization without the user becoming lost in the comparison data.

A review of Paragraph [0013] above reveals:

- 1) There is *no teaching* of providing a plurality of animated graphic files;
- 2) There is *no teaching* of an animated graphic file depicting a unique contest between at least a first entity representing a first product and a second entity representing a second product.
- 3) There is *no teaching* of a unique contest between products. Only a comparison of attributes.

Tiongson is directed to Internet shopping software having an interactive display. The only animation disclosed in Tiongson is related to user interaction. The only animation is moving reorganization of pictures of the selected products on the screen.¹ Attribute data is static product

¹ See Tiongosn; [0018]

data, such as model number, speed, and capacity.² There is no suggestion or teaching of product testing or the relationship of attributes to a product test. Indeed, the word “test” is nowhere in the entire specification. In the present invention, there is no interaction coincident with the animation. Properly understood, Tiongson is simply unrelated to the present invention. Applicant respectfully asserts the rejection is, on this basis, traversed, and the Claims are in condition for allowance.

Notwithstanding the foregoing, Examiner concedes that Tiongson does not disclose “associating each animated graphic file with at least one unique numeric range that collectively comprise a substantially continuous numeric scale.” However, Examiner continues, referring back and forth between Tiongson and Savolainen, to formulate the rejection, stating

- A. Savolainen teaches associating each animated graphic file (see page 2 [0019]) with at least one unique numeric range that collectively comprise a substantially continuous numeric scale (page 135 section 4);
- B. Tiongson teaches in fig. 4 determining a first product (e.g. in 406 the ThinkPad 770 81u can be considered as the first product) value representing the first product's performance on a test;
- C. Tiongson teaches in fig. 4 determining a second product (e.g. in 406 the ThinkPad 770 82u can be considered as the second product) value representing the second product's performance on the test;
- D. Tiongson teaches solving for a numeric contest value by mathematical relationship (page 1, [0012]) between the first product value and the second product value;
- E. Savolainen teaches determining which numeric range includes the contest value (p. 135 section 3.5);

² See Tiongson; [0033].

- F. Tionson teaches selecting the animated graphic file associated with the numeric range which includes the contest value; and, displaying the selected animated graphic file (page 1, [0019]).

These assertions are responded to below in order.

- A. Savolainen teaches associating each animated graphic file (see page 2 [0019]) with at least one unique numeric range that collectively comprise a substantially continuous numeric scale (page 135 section 4);

Regarding (A) above: Savolainen begins on page 133 of the publication. Applicant assumes, without knowing, that perhaps Examiner refers to page 134. There is no paragraph 19 in Savolainen (which ends with paragraph 11), so Applicant has not been provided with sufficient or proper identification of the cited reference from which he can respond. Applicant invites Examiner to pinpoint the alleged teaching. Page 135, paragraph 4 is reproduced below:

4. MODELING PRODUCT LINE REQUIREMENTS

In our model, prioritization defines the importance of a requirement for one product line variant.² The only exception is a quantifiable constraint combined to the requirement with a range of acceptable values ~ some of which are more desirable than others. This can be specified as multiple prioritization values for just one product.

Page 136 includes a table that articulates a hierarchy of priority values. The paragraph following the table states:

In this prioritization scheme, the emphasis is on important and useful prioritization values since they are the source of main confusion during the trade-off analysis. That is, we need finer level support on this upper part of the prioritization range. All examples in this paper use the ten level prioritization value model. In the following example, there is a requirement with three prioritization values for each product respectively.

The highlighted sentences embrace the teaching of the reference. A review of Paragraph 4 above reveals that there is no teaching of associating animated graphic files with at least one unique

numeric range that collectively comprise a substantially continuous numeric scale. It just doesn't exist. Applicant invites Examiner to pinpoint the alleged teaching.

Savolanien is directed to a detailed domain analysis for predicting the evolution of software. It has nothing to do with product testing, comparison, and animation of the comparison whatsoever. As such, it is unrelated to the problem sought to be solved by the present invention and is irrelevant to the examination of the present application. Applicant respectfully asserts the rejection is, on this basis, traversed, and the claims are in condition for allowance.

- B. Tiongson teaches in fig. 4 determining a first product (e.g. in 406 the ThinkPad 770 81u can be considered as the first product) value representing the first product's performance on a test;
- C. Tiongson teaches in fig. 4 determining a second product (e.g. in 406 the ThinkPad 770 82u can be considered as the second product) value representing the second product's performance on the test;

Regarding (B) and (C): Examiner suggests that Tiongson *can be interpreted to suggest* that the attributes of a ThinkPad, such as its model number, suggest the products performance on a test. Applicant disagrees. As stated above, attribute data is static product data, such as model number, speed and capacity.³ Applicant respectfully asserts the rejection is, on this basis, traversed, and the Claims are in condition for allowance.

- D. Tiongson teaches solving for a numeric contest value by mathematical relationship (page 1, [0012]) between the first product value and the second product value;

³ See Tiongson; [0033].

Regarding (D): Tionson (page 1, [0012]) is reprinted below.

[0012] U.S. Pat. No. 5,924,077 issued Jul. 13, 1999, discloses an electronic storage device for storing raw points of sale data; a data interpreter for transforming the raw data into a pre-defined standardized configuration; and a processor for deriving option values from the transformed data according to a set of mathematical/relational functions. A business rule execution engine is operatively linked to the processor and a business rule execution database. The engine allows the processor to compute corresponding mathematical/relational functions; compare the object values and corresponding reference values; and identify a past condition representative of an acceptable comparisons; a "failed" condition or a "warn" condition representative of a question of comparison. The identified condition is outputted from a processor and displayed to the user.

As seen from the cited text, mathematical manipulation of sales data is disclosed in a reference prior to Tionson. Examiner is apparently combining the summary teaching of art prior to Tionson with Examiner's suggestions that the Tionson teaches product testing and first product value and the second product value. There is no such disclosure apparent, and certainly, most clearly, no teaching or suggestion of "*solving for a numeric contest value by mathematical relationship between the first product value and the second product value.*" Applicant respectfully asserts the rejection is, on this basis, traversed, and the Claims are in condition for allowance.

E Savolainen teaches determining which numeric range includes the contest value (p. 135 section 3.5);

Regarding (E): Savolainen (p. 135 section 3.5) is reprinted below.

3.5 Constraint (C)

Constrains refine other requirements and make them measurable by providing parameters that specify how the specific requirement can be satisfied. The parameter defines a value or a set of values that shall be fulfilled by the properties of the system. A value is represented by separate node that is a child node of the parent constraint. Value nodes can have only a constraint node as its super entity.

It is clear from the plain language of the cited text that there is no teaching or reference to “determining which numeric range includes the contest value.” Specifically, there is nothing is this reference related to a contest value. In fact, the values described are defined as “a child node of the parent constraint.” Though wholly irrelevant, the cited text referring to parent – child nodes teaches away from a resolved contest value which the present Application teaches as falling within a numeric range. Applicant respectfully asserts the rejection is, on this basis, traversed, and the Claims are in condition for allowance.

- F. Tionson teaches selecting the animated graphic file associated with the numeric range which includes the contest value; and, displaying the selected animated graphic file (page 1, [0019]).

Referring to (F) above, paragraph [0019] is copied below in its entirety.

[0019] These and other objects, features and advantages are achieved in an information network including an interactive display and method of operation which provides improved visualization to allow a user to select and organize product information by categories and attributes for on-line comparison and selection of a product in an electronic commerce environment. The information network further includes at least one knowledge site containing product and attribute information for access by a user through the interactive display. A processor is coupled to the display and a storage disk. The processor includes a Java operating system; an application program for processing product information by categories in terms of products and attributes, and a browser enabling a user to access and interact with the knowledge site through Java applets. The disk contains product information by category; each category received from the knowledge site in the form of HTML files and HTML parameters. The user accesses a knowledge site through a screen provided by the browser. The screen

includes a primary category selection area; a secondary category selection area; an active table area; an Y value area for products; an Y value area for extra products; an X area for product attributes; and an X value area for extra product attributes. After accessing the knowledge site for product selection and comparison using the browser, the user selects a product category from the screen. All product categories, elements and attributes are displayed on the screen. A subcategory is selected which limits the display in the active area to the selected subcategory in a highlighted state. Additional subcategories can be added to or deleted from the current selection set. An element can be added to the active table by moving the mouse over the elements in the product overflow areas and selecting the element of interest. A similar interaction is possible for attributes. Selecting an attribute not only moves the attribute to the front of the attribute list in a highlighted state, but also sorts the active table area by that attribute. Products and their attributes can be removed from the active table area. The screen allows a user to choose products or elements on one screen axis (Y), and choose the characteristics or attributes of the products on a second screen axis (X). The desired products and attributes can then be compared. As the user interacts with the interface, the products and attributes animate while reorganizing their screen locations. A physical-based model is used for the motion of the animated elements. The animation provides a smooth movement and illustrates the continuous relationship of the elements in the table to each other. A user will better understand the new state of the display by seeing how the display context changes from one state to the next according to the user's interaction with the display.

Applicant has highlighted what he believes Examiner is referring to. The text refers to interactive organization of a screen display to illustrate attributes of products for on-line purchasing. Applicant respectfully asserts that the cited text fails to teach or suggest “selecting the animated graphic file associated with the numeric range which includes the contest value; and, displaying the selected animated graphic file.” Applicant invites Examiner to pinpoint the relationship to a contest value on which this rejection is based. Applicant believes the plain meaning of the cited text speaks for itself, and is unrelated to the present invention. Applicant respectfully asserts the rejection is, on this basis, traversed, and the Claims are in condition for allowance.

It is one thing to reject an application based on combined teachings which, combined, suggest an invention obvious. However, it is improper hindsight to combine multiple *suggestions* (Examiner's interpretations) to obtain a singular *suggestion* on which to base a rejection. Moreover, Examiner's interpretations are exaggerated beyond any support within the cited references. The references are unrelated to the endeavor of the inventor, and unrelated to each other.

CONCLUSION

Applicant respectfully submits the Claims as presented in the proposed amendments are allowable over the prior art. Claim 3 depends from Claim 1 and is considered allowable as depending from an allowable claim. No rejection has been tendered on the remaining claims, and they are therefore, and for all reasons stated hereinabove, considered allowable. Applicant requests favorable consideration of this Application and its allowance.

Respectfully submitted,

Date: June 17, 2008

/John G. Fischer/

John G. Fischer

Registration No. 41,478

STORM LLP
901 Main Street, Suite 7100
Dallas, TX 75202
(214) 347-4703
(214) 347-4799 (fax)